

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**BELINDA WISE**

Claimant

VS.

**CONAGRA FOODS**

Respondent,  
Self-Insured

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Docket No. 1,010,008

**ORDER**

The respondent appealed the June 20, 2003 preliminary hearing Order entered by Administrative Law Judge Bryce D. Benedict.

**ISSUES**

This is a claim for bilateral carpal tunnel syndrome. Claimant testified she first experienced symptoms in her right upper extremity commencing approximately December 14, 2002, and later experienced symptoms in her left upper extremity. In the June 20, 2003 Order, Judge Benedict determined that the work claimant performed for ConAgra Foods, at the minimum, aggravated a preexisting condition. Accordingly, the Judge granted claimant's request for benefits.

Respondent contends Judge Benedict erred. Respondent, who is a meat processor, contends that claimant is not credible and that she has failed to prove that she either injured or aggravated her upper extremities working in its plant. Respondent argues that claimant's bilateral carpal tunnel syndrome was too severe and claimant's period of employment too short for her injuries to have been caused by the work that she performed in its plant. The company contends it is more probable that claimant developed carpal tunnel syndrome while working for an Alabama bindery company and sought employment in Kansas for the sole purpose of making this workers compensation claim. Accordingly, respondent requests the Board to reverse the June 20, 2003 Order and deny claimant's request for benefits.

Conversely, claimant requests the Board to affirm the preliminary hearing Order. Claimant argues that she performed repetitive hand-intensive work for extended hours while working for respondent as contrasted to the intermittent part-time work that she performed for the bindery company. Claimant notes that she did not have any upper

extremity symptoms until December 14, 2002, when she attempted to lift a bucket that was wedged into place and felt pain in her right upper extremity from her hand to her shoulder. Claimant contends that following that lifting incident she sustained a series of traumas to her upper extremities as she continued to perform repetitive work through approximately February 13, 2003. Claimant also believes that she overused her left upper extremity while protecting the right.

The only issue before the Board on this appeal is whether claimant has established that she either injured or aggravated her upper extremities while working in respondent's plant.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record compiled to date and the parties' arguments, the Board finds and concludes that the June 20, 2003 preliminary hearing Order should be affirmed.

In December 2002, claimant began working at respondent's meat processing plant performing repetitive work as she placed individual casings onto plastic tubes that filled the casings with meat. While performing that work, claimant developed carpal tunnel symptoms in both upper extremities. The Judge found claimant's injuries compensable under the Workers Compensation Act. And the Board agrees.

The Board finds that claimant's testimony is credible that on December 14, 2002, she experienced pain in her right upper extremity when she attempted to lift a bucket that was wedged into place. Claimant immediately reported that incident and sought treatment from the company nurse.

Claimant's testimony is also credible that she continued working after the bucket incident and that her symptoms worsened. On January 6, 2003, claimant saw the company doctor's physician assistant Bryan S. Van Meter for her right hand and arm complaints. The physician assistant's notes dated January 30, 2003, record that claimant was beginning to experience right elbow pain and left wrist pain that she attributed to overuse.

Claimant continued to work for respondent performing hand-intensive work through approximately February 13, 2003, when her duties were changed. Claimant then worked light duty through March 31, 2003, when she was terminated as respondent had decided that claimant's injuries were not caused by her work.

On May 21, 2003, Dr. Sergio Delgado evaluated claimant at her attorney's request. The doctor concluded that claimant's bilateral carpal tunnel syndrome was either caused

or aggravated by claimant's work at respondent's meat processing plant. In his May 21, 2003 medical report, the doctor wrote, in part:

Causation of her symptoms is competently related to work activities at ConAgra. **They were either caused or significantly aggravated by repetitive work activities that she engaged in, particularly on a full-time work basis and acknowledging the repetitive use of both upper extremities with significant stress to both upper extremities.** (Emphasis added.)<sup>1</sup>

At respondent's request, Dr. Robert L. Coleman examined claimant. In the doctor's June 17, 2003 report, the doctor wrote, in part:

There is no doubt as to the diagnosis of bilateral carpal tunnel syndrome, which in this case appears to be severe. The main concern, however, is the rapidity of onset and after only one week of employment. The degree of severity and rapidity of development is most unusual for carpal tunnel syndrome develops typically over a much longer period of time, in some cases greater than one year. **It must be assumed that the patient has a predisposition for this condition,** and that compression of the median nerve had occurred long before her initial employment in December of 2002. In addition, it would be extremely unusual to have significant thenar muscular atrophy after such a short period of employment. **I must therefore conclude that median nerve compression had been present for a long period unbeknownst to the patient.** I hope this information will be of some help. If there are any questions, please let me know. (Emphasis added.)<sup>2</sup>

The greater weight of the evidence indicates that claimant's December 14, 2002 accident and the repetitive work activities that she performed after that date through approximately February 13, 2003, more probably than not aggravated a preexisting condition in claimant's upper extremities. Consequently, claimant's injuries are compensable under the Workers Compensation Act.

The Board has considered respondent's arguments that it is more probable claimant's work at an Alabama bindery caused claimant's injuries and that claimant is not credible. At this juncture of the claim, however, the evidence indicates that claimant only worked at the bindery on a part-time basis and only for a few hours per week. The record fails to establish that any repetitive work that claimant performed at the bindery was of such duration to have caused the injuries in issue. Further, at this juncture of the claim, the Board is unable to conclude that claimant is not credible. Even Dr. Coleman's report did

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<sup>1</sup> See P.H. Trans., Cl. Ex. 1.

<sup>2</sup> P.H. Trans., Resp. Ex. A.

not conclude that claimant was disingenuous. Instead, Dr. Coleman determined that claimant was probably predisposed to the carpal tunnel syndrome and that she probably had median nerve compression unbeknownst to her.

The Board finds no reason to disturb the Judge's findings and conclusions. The preliminary hearing Order should be affirmed.

**WHEREFORE**, the Board affirms the June 20, 2003 Order entered by Judge Benedict.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of October 2003.

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BOARD MEMBER

c: Jeff K. Cooper, Attorney for Claimant  
Mark E. Kolich, Attorney for Respondent  
Bryce D. Benedict, Administrative Law Judge  
Paula S. Greathouse, Workers Compensation Director